

CHAPTER 6 REAL PROPERTY TRANSFER TAX

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600 GENERAL PROVISIONS

- 600.1 The provisions of this chapter are adopted under authority set forth in §416 of the "District of Columbia Revenue Act of 1980" (also referred to in this chapter as the "Act"); D.C. Law 3-92 (effective Sept. 13, 1980); D.C. Code §47-916 (1981 Ed.).
- 600.2 For the purposes of this chapter, the words, terms, and phrases defined in the Act shall have the same meanings when used in this chapter, unless otherwise required by the context of this chapter.
- 600.3 When used in this chapter, the term "Deputy Chief Financial Officer" means the Deputy Chief Financial Officer of the Office of Tax and Revenue ("Office"), or the Deputy Chief Financial Officer's lawfully appointed agent, representative, or designee.
- 600.4 When used in this chapter, the term "Recorder of Deeds" shall mean the Recorder of Deeds of the District of Columbia, or his or her lawfully appointed agent, representative, or designee.
- 600.5 When used in the Act, the term "parent" means a person who is the natural parent of a child or a person who has legally adopted a child. The term "child" includes both minors and adults.
- 600.6 When used in the Act and this chapter the term "fair market value" means the price at which a willing seller and a willing buyer will trade, or the price which would in all probability have been arrived at between a willing seller and a willing buyer.

AUTHORITY: Unless otherwise noted, the authority for this chapter is §416 of the District of Columbia Revenue Act of 1980, D.C. Law 3-92, D.C. Code §47-916 (1981 Ed.).

SOURCE: Final Rulemaking published at 27 DCR 4929 (November 7, 1980), incorporating text of Proposed Rulemaking published at 27 DCR 3347, 3349 (August 1, 1980).

EDITOR'S NOTE: The Office of the Chief Financial Officer of the District of Columbia published a Notice of Public Interest at 44 DCR 2345 (April 18, 1997) changing the name of the "Department of Finance and Revenue" to the "Office of Tax and Revenue."

601 EXEMPTIONS FROM THE TRANSFER TAX

- 601.1 In addition to the exemptions specifically enumerated in §402 of the Act (D.C. Code §47-902), the exemptions set forth in this section shall apply to the tax.
- 601.2 Transfers under wills and leases shall be exempt from the transfer tax in accordance with §§401 and 403 of the Act.
- 601.3 The exemption of transfers of property by the United States or the District under §402 of the Act shall include deeds to property acquired by an agency or instrumentality of either government, and shall include the transfer of property sold by the District for delinquent District real property taxes.
- 601.4 A transfer which, under its terms, is limited exclusively to securing a debt or other obligation shall be exempt from the transfer tax.
- 601.5 A transfer which, without additional consideration, is limited exclusively to confirming, correcting, modifying, or supplementing a deed previously recorded shall be exempt from the transfer tax.

SOURCE: Final Rulemaking published at 27 DCR 4929 (November 7, 1980), incorporating text of Proposed Rulemaking published at 27 DCR 3347, 3350 (August 1, 1980).

602 PAYMENT OF THE TRANSFER TAX

- 602.1 The basis for the tax is the transfer of real property and, except as otherwise provided in the Act or this chapter, the tax shall be paid within thirty (30) days of the transfer, and at the same time the deed evidencing the transfer is submitted for recordation.
- 602.2 The measure of the tax shall be the consideration for the transfer of the property conveyed by the deed.
- 602.3 The term "consideration," as defined in §401 of the Act, as amended, (D.C. Code §47-901(5)), includes consideration actually paid or ultimately required to be paid for real property, whether that consideration is in the form of cash or is in some other form.
- 602.4 If there is no consideration for the property which is the subject of the transfer (or if the consideration is nominal), consideration is construed to be the fair market value of the real property involved, in accordance with §404 of the Act, the fair market value shall be subject to review by the Office.

- 602.5 Review of the fair market value determination under §602.4 may be based on (but is not necessarily limited to) a review of existing assessment records, current sales data, construction reproduction costs, and other appropriate information.

SOURCE: Final Rulemaking published at 27 DCR 4929 (November 7, 1980), incorporating text of Proposed Rulemaking published at 27 DCR 3347, 3350 (August 1, 1980).

603 TRANSFER TAX RETURNS

- 603.1 Except as otherwise specifically provided in this chapter, each transfer submitted to the Recorder of Deeds for recordation on or after August 1, 1980, shall be accompanied by a return under oath, executed by all the parties to the transfer.
- 603.2 In the case of a party to a transfer who is unable to execute a return by reason of minority or other disability, the return shall be executed by the person or persons duly authorized to act for and on behalf of the party under disability, and the person or persons executing a return on behalf of such a party shall be liable for payment of the tax imposed upon the transfer.
- 603.3 Returns shall be in such form or on a form as the Deputy Chief Financial Officer, in consultation with the Recorder of Deeds, shall prescribe.
- 603.4 Each return shall set forth the consideration for the property, the amount of tax payable, if any, and such other information as the Deputy Chief Financial Officer shall require.
- 603.5 In the case of a transfer for which exemption from the tax is claimed, the return shall show the basis for exemption.
- 603.6 Where exemption is claimed under D.C. Code §47-902(3), or 47-902(4), the return shall also show the purpose or purposes for which the property was acquired and shall be accompanied by such documents and other information as the Deputy Chief Financial Officer may deem necessary to determine the exempt or taxable status of the transfer.

SOURCE: Final Rulemaking published at 27 DCR 4929 (November 7, 1980), incorporating text of Proposed Rulemaking published at 27 DCR 3347, 3351 (August 1, 1980).

604 RECORDATION OF EXEMPT TRANSFERS WITHOUT FILING A RETURN

- 604.1 Except as otherwise provided in this section, the following exempt transfers may be accepted for recordation without the filing of a return:
- (a) Transfers of property by the United States or the District of Columbia or by agencies and instrumentalities of either;
 - (b) Tax deeds executed by the District of Columbia government pursuant to the provisions of law pertaining to the assessment and collection of D.C. real property taxes; and

- (c) A transfer evidenced by a deed, the sole purpose of which is to release property which is security for a debt or other obligation.
- 604.2 The submission of a deed evidencing transfer for recordation without a return shall constitute a representation by the parties to the transfer that the deed, in all respects, meets the requirements of the Act and this section.
- 604.3 Notwithstanding the provisions of §§604.1 and 604.2, the Recorder of Deeds, in any case where a deed evidencing transfer is submitted for recordation without a return, may reject the deed for recordation unless a return is filed if, in his or her judgment, it appears from the deed or other information in the possession of the Recorder of Deeds that the transfer does not conform with the provisions of this section and that a return is required for the purpose of determining whether the transfer is, in fact, exempt from tax.
- 604.4 If the Recorder of Deeds rejects a deed for recordation under §604.3, he or she shall notify the Deputy Chief Financial Officer of the action and the transfer shall be reviewed by the Deputy Chief Financial Officer to determine its status.
- 604.5 If the Deputy Chief Financial Officer concludes that a return is required, he or she shall notify the parties to the transfer at the addresses shown on the statement accompanying the deed. The parties shall file a return with the Deputy Chief Financial Officer. The Deputy Chief Financial Officer shall determine whether the transfer is exempt or taxable; if taxable, the amount of tax; and shall notify the Recorder of Deeds of the determination. If the deed is otherwise recordable, the Recorder of Deeds shall record it upon presentation and payment of any tax determined by the Deputy Chief Financial Officer to be due.

SOURCE: Final Rulemaking published at 27 DCR 4929 (November 7, 1980), incorporating text of Proposed Rulemaking published at 27 DCR 3347, 3352 (August 1, 1980); as amended by Final Rulemaking published at 37 DCR 5691 (August 31, 1990).

605 EXTENSION OF TIME FOR FILING RETURNS

- 605.1 The Deputy Chief Financial Officer may, in his or her discretion, for good cause shown grant to a party to a transfer a reasonable extension of time not to exceed six (6) months for the filing of a return by that party.
- 605.2 The party seeking an extension shall apply to the Deputy Chief Financial Officer for the extension in writing, stating the reason(s) for the extension and any other information required by the Deputy Chief Financial Officer.
- 605.3 If an extension of time for filing a return has been granted by the Deputy Chief Financial Officer, the Deputy Chief Financial Officer shall notify the Recorder of Deeds in writing of the action. The Recorder of Deeds, upon receipt of a return from each of the other parties to the deed and payment of the applicable tax, shall (if the deed evidencing the transfer is otherwise recordable) be authorized to record the deed without the filing of a return by the party to whom an extension has been granted.

SOURCE: Final Rulemaking published at 27 DCR 4929 (November 7, 1980), incorporating text of Proposed Rulemaking published at 27 DCR 3347, 3351 (August 1, 1980).

606 WAIVER OF THE FILING OF A RETURN

- 606.1 Whenever the Deputy Chief Financial Officer determines that a party to a transfer cannot file a return, the Deputy Chief Financial Officer is authorized, in his or her discretion, to waive the requirement for the filing of a return by that party. In such cases, the Deputy Chief Financial Officer may require any affidavits, documents, and statements to be submitted that are deemed necessary by the Deputy Chief Financial Officer for a determination whether a waiver should be granted.
- 606.2 Any waiver granted by the Deputy Chief Financial Officer to a party shall not, unless specifically authorized, be deemed to be a waiver as to any other party, and that waiver shall not affect the requirement for payment of the tax applicable to the transfer at the time the deed evidencing the transfer is submitted for recordation.
- 606.3 Upon notification in writing from the Deputy Chief Financial Officer that a waiver has been granted, the Recorder of Deeds shall be authorized to record the deed (if the deed is otherwise recordable) without the filing of a return by the party to whom the waiver applies.

SOURCE: Final Rulemaking published at 27 DCR 4929 (November 7, 1980), incorporating text of Proposed Rulemaking published at 27 DCR 3347, 3351 (August 1, 1980).

607 SECURITY FOR PAYMENT OF TAX

- 607.1 Whenever it is determined that a deed evidencing transfer submitted for recordation cannot be recorded by reason of failure of the parties to file a proper return or by reason of question as to the correct amount of tax, the Deputy Chief Financial Officer is authorized to accept such security in such form(s) as, in the discretion of the Deputy Chief Financial Officer, may be necessary to insure that the tax which is or may be applicable to the transfer is paid.
- 607.2 Upon being notified of the acceptance of the security by the Deputy Chief Financial Officer, the Recorder of Deeds shall record the deed evidencing transfer if it is otherwise recordable.
- 607.3 After accepting the security and notifying the Recorder of Deeds, the Deputy Chief Financial Officer shall determine the applicable tax.
- 607.4 Upon payment of the tax due, the Deputy Chief Financial Officer shall return the security to the person or persons from whom it was obtained.
- 607.5 If payment of the tax is not made, the Deputy Chief Financial Officer shall, so far as is possible, collect the tax out of the security previously paid to the Deputy Chief Financial Officer. If there is any excess security, the Deputy Chief Financial Officer shall return that excess to the person or persons from whom it was obtained.

- 607.6 If the security is inadequate for collection of the entire amount of tax, the parties to the deed shall be liable jointly and severally for the balance of the tax due.

SOURCE: Final Rulemaking published at 27 DCR 4929 (November 7, 1980), incorporating text of Proposed Rulemaking published at 27 DCR 3347, 3353 (August 1, 1980).

608 INSPECTION OF RETURNS AND OTHER DOCUMENTS RELATED TO DEEDS

- 608.1 Except as otherwise provided in the Act or this section, all returns and other documents pertaining to deeds evidencing transfers of real property which are filed with the Recorder of Deeds or the Deputy Chief Financial Officer pursuant to the Act or this chapter shall be available for inspection only to the following:

- (a) The person or persons filing the return or document;
- (b) An official or employee of the District who has duties and responsibilities in connection with those returns or documents;
- (c) An official of the government of the United States when acting in his or her official capacity; and
- (d) An official of a state or political subdivision of a state when acting in his or her official capacity, if similar privileges are accorded to District audit officials by that state or political subdivision.

- 608.2 Information on the amount of tax paid upon the recordation of a deed shall be available to the public.

SOURCE: Final Rulemaking published at 27 DCR 4929 (November 7, 1980), incorporating text of Proposed Rulemaking published at 27 DCR 3347, 3353 (August 1, 1980).

609 NAKED TITLE DEEDS

- 609.1 If the grantee named in a recorded deed upon which the applicable tax has been paid acted as a nominal grantee for the sole purpose of holding, on behalf of another person, naked title to the property described in the deed, a deed to that property subsequently executed by the nominal grantee, without consideration, naming as grantee the person on whose behalf the nominal grantee acted, shall be exempt from tax as a deed which, without additional consideration, confirms, corrects, modifies, or supplements a deed previously recorded.

- 609.2 If the owners of an estate in real property have, for the sole purpose of changing their estate (for example, in the case of a change from a tenancy in common to a joint tenancy) executed a deed to a nominal grantee holding naked title to the property, who, in turn, and without consideration, executes a deed to the same owners so as to effect the change of estate desired, the deeds so executed shall be exempt from tax as deeds which, without additional consideration, confirm, correct, modify, or supplement a deed previously recorded.

- 609.3 If an exemption is claimed under this section, the right to the exemption must be established to the satisfaction of the Deputy Chief Financial Officer upon the presentation to the Deputy Chief Financial Officer of such returns, documents, and other information that the Deputy Chief Financial Officer, in his or her discretion, may require.

SOURCE: Final Rulemaking published at 27 DCR 4929 (November 7, 1980), incorporating text of Proposed Rulemaking published at 27 DCR 3347, 3353 (August 1, 1980).

610 TRANSFERS PURSUANT TO FORECLOSURE PROCEEDINGS

- 610.1 Transfers of property pursuant to foreclosure sales shall be subject to the tax imposed by §403 of the Act (D.C. Code §47-903) regardless of the identity of the grantee named in the deed issued pursuant to the sale, including a grantee who is the original secured party or mortgagee under the deed of trust or mortgage which secured the debt or other obligation on the property transferred.
- 610.2 Transfers of property which occur pursuant to a deed issued in place of a foreclosure sale shall be subject to the tax imposed by §403 of the Act (D.C. Code §47-903) regardless of the identity of the grantee named in the deed, issued in place of the foreclosure sale, including a grantee who is the original secured party or mortgagee under the deed of trust or mortgage which secured the debt of other obligation on the property transferred.
- 610.3 For the purposes of this section, the measure of the tax shall be the consideration for the transfer as provided in §403 of the Act.
- 610.4 The provisions of §602 of this chapter shall apply to this section.

SOURCE: Final Rulemaking published at 31 DCR 1205, 1206 (March 9, 1984).

611 TRANSFERS OF REVOCABLE TRUST DEEDS

- 611.1 Transfers of naked legal title to real property to a trustee by a settlor who retains a right of revocation shall be subject to the tax imposed by §403 of the Act (D.C. Code §47-903 (1981 Ed.)), unless otherwise exempt under the Act or this chapter.
- 611.2 For purposes of this section, the measure of the tax shall be the consideration for the deed as provided in §§403 and 404 of the Act (D.C. Code §§47-903 and 47-904 (1981 Ed.)).
- 611.3 If the settlor of a revocable trust deed who retains a right of revocation exercises such right of revocation, and the trustee thereby transfers legal title from the trustee back to the settlor as beneficial owner, the transfer shall be exempt from the transfer tax pursuant to §402(8) of the Act (D.C. Code §47-902(8)) (1981 Ed.) as a deed which without additional consideration, confirms, modifies, or supplements a deed previously recorded.

SOURCE: Final Rulemaking published at 32 DCR 327, 328 (January 18, 1985).

